



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI

GOVERNOR

MEMORANDUM

DAVID P. LITTELL

COMMISSIONER

To: Board of Environmental Protection

From: Joan M. Jones, ES III, Bureau of Remediation & Waste Management
Division of Oil & Hazardous Waste Facility Regulation

Subject: Portsmouth Naval Shipyard Draft Commercial Hazardous Waste Storage
Facility

Date: December 7, 2006

Statutory and Regulatory References:

Title 38 M.R.S.A. Section 1301 et. seq., 38 M.R.S.A. 1319 et. seq. and 06-096
Chapters 850-857 Maine Hazardous Waste Management Rules (July 20, 2004).

Location:

Kittery, York County, Maine

Description:

Portsmouth Naval Shipyard (the Shipyard) is renewing its commercial hazardous waste storage facility license. This license covers only storage of containerized hazardous wastes for a limited period of time up to 180 days.

History:

On January 26, 2006 the Shipyard submitted an application to the Department to continue their Commercial Hazardous Waste Storage Facility (HWSF) operations. A Public Informational Meeting prior to its submission was conducted on January 17, 2006.

When this commercial hazardous waste facility was originally proposed, Kittery was granted an opportunity to appoint up to four local representatives to serve on the Board of Environmental Protection. The municipality of Kittery appointed three interested persons to serve on the BEP during the 2000 approval process. In addition, in October 2000 the Board held a mandatory public hearing at the Days Inn in Kittery, Maine. The Board heard testimony from the applicant, the Departments of Environmental Protection and Transportation staff, as well as from interested parties who came before the Board to offer their comments on the application. Prior to the hearing, the Board and Department staff toured the HWSF with Navy personnel. As required by State law, the Town of Kittery was provided with a thirty-day review period for both the draft and final Orders. The Board approved the commercial license in May, 2001.

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Procedure:

This draft license was provided to the Town of Kittery thirty days prior to today's meeting. Upon the Board's decision regarding this draft order, the Department will publish notice for a required forty-five day comment period.

Environmental Issues:

There are no new environmental issues that were not addressed in previous licenses. In previous licenses, three key issues were addressed:

1. In PNS's original license and renewal for its previous facility building identified as Building 313 (as issued in 1985, 1992 and now closed) and with the existing facility building identified as Building 357, the Board determined that as a result of the site's location, contingency plans and conditions of approval, PNS was able to overcome the rebuttable presumption contained in Chapter 854, Section 7 (B). This section of the regulations prohibits the siting of a hazardous waste facility within three hundred feet of the one-hundred year flood plain. A site-specific investigation in 1995 documenting and delineating the flood elevations was conducted and a report provided to the Department. This investigation determined that the actual 100-foot floodplain datum was a half-foot lower than originally estimated. Department staff carefully reviewed this data and concurred with its findings.
2. The current license also grants a variance to the requirement that a storage area be underlain by either a natural clay or synthetic liner as specified in Chapter 854, Section (12)(B)(2) for the outdoor support area for seven large roll-off containers. The variance is based on the type and location of the facility, the manner of storage, the placement of an alternative sealant, the type of hazardous wastes (solids only) stored and the operational and inspection procedures proposed by PNS.
3. To address traffic concerns, the Shipyard continues to agree to limit use of Gate No. 2 to only those instances when Gate No. 1 is closed and inaccessible. To avoid the higher traffic periods of the day, the Department required that shipments of waste be scheduled to arrive prior to 2:30 pm to avoid the transportation of hazardous wastes simultaneously with the release of school buses and Shipyard employees. The Shipyard agreed to schedule no more than two trucks per week to receive waste shipments. The Shipyard's annual reports document this limitation is being met. These conditions are continued in this draft renewal.

Department Recommendation:

The staff recommends approval of this draft license for a commercial Hazardous Waste Storage Facility, allowing the operation of the Hazardous Waste Facility at this location as provided for in the Maine Hazardous Waste Management Rules, and provided that PNS complies with the rules and the terms and conditions of approval.

Tentative Schedule:

Municipal review of Draft Order – November 6 through December 6, 2006

Draft license decision – December 7, 2006

Public Notice of draft decision – December 8, 2006

45-day comment period of draft decision ends – January 22, 2007

Municipal review of final order- January 23 through February 23, 2007

Final decision- March 15, 2007

Estimated Time of Presentation:

Thirty minutes.